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10/675,223	09/30/2003	Michael P. Boutillette	BSME120587	9880

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EXAMINER

NGUYEN, HUONG Q

ART UNIT PAPER NUMBER

3736

DATE MAILED: 04/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/675,223

Applicant(s)

BOUTILLETTE ET AL.

Examiner

Helen Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 13-19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10/18/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species:  
**Species 1**, drawn to a guidewire torquing device comprising a channel and a slider with corresponding engagement surfaces illustrated in Figures 1-4;  
**Species 2**, drawn to a guidewire torquing device comprising a channel and a slider in a slot illustrated in Figures 8A, B;  
**Species 3**, drawn to a guidewire torquing device comprising a compressible body portion and ring illustrated in Figure 9;  
**Species 4**, drawn to a guidewire torquing device comprising a first and second body portion joined by a hinge and channel for imparting curves, illustrated in Figures 5-6;  
**Species 5**, drawn to a guidewire torquing device comprising a top and bottom body portion joined by a hinge and a grip-enhancing strip channel, illustrated in Figure 7.
2. The species are independent or distinct because they require different mechanisms for modes of operation.
3. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claims are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable

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thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

4. During a telephone conversation with Rodney Tullett on 3/21/2006 at 11:45 am a provisional election was made without traverse to prosecute the invention of I, **Claims 1-12**. Affirmation of this election must be made by applicant in replying to this Office action. **Claims 13-19** withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

## **DETAILED ACTION**

### ***Information Disclosure Statement***

6. The information disclosure statement (IDS) submitted on 10/18/2004 is/are acknowledged. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

### ***Oath/Declaration***

7. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because: the oath does not contain the signatures of all three inventors.

### ***Drawings***

8. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters "260" and "266" have both been used to designate "clip".

9. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

10. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: element 224, shown in Figure 8B.

11. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

12. The drawings are also objected to for the following reasons: element 214 shown in Figure 9 should be 256, corresponding to "ring."

### ***Specification***

13. The disclosure is objected to because of the following informalities: "channel 218" disclosed on p.7 line 30 of the specification should be "slot 218".

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. **Claims 1-5** are rejected under 35 U.S.C. 102(b) as being anticipated by Wilson et al (US Pat No. 6030349).

16. In regards to **Claim 1**, Wilson et al disclose device for applying torque to a wire, comprising:

(a) a body portion (16) having a channel (34), which includes “internal cavity” (36), with an opening that extends along the length of the body portion (Col.4, line 5-8, 17-21) , best seen in Figure 3, and a first engagement surface within the channel, wherein said first engagement surface is referred to as "base surface" (74) and includes “elastomers” (18), best seen in Figures 5a and 7 (Col.4, line 39-43; Col.5, line 43-51) ;

(b) a slider, referred to as "button" (20) (Col.5, line 19-25) , that is slideable within the channel of the body portion, wherein slideable movement includes up and down motions, so that the channel (34) in the body portion remains open, as indicated in Figure 7, the slider having a second engagement surface, wherein said second engagement surface is defined as the surface opposite and parallel to “base surface” (74) shown in Figure 7, that compresses a wire that is inserted in the channel against the first engagement surface (74) so that rotation of the body portion applies torque to the wire (Col.6, line 30-40).

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17. In regards to **Claim 2**, Wilson et al disclose the first engagement surface as a tongue, best depicted as the structure referred to as “undersurface” (62) in Figure 7, that is suspended (does not touch the base) in the channel of the body portion, wherein said channel includes “internal cavity” (36) (Col.5 line 9-11, 19-25).

18. In regards to **Claim 3**, Wilson et al disclose the slider with a channel, referred to as “second channel” (68) (Col.5, line 43-51), with an open end and a closed end, wherein said open end is the surface correlating to the surface opposite and parallel to said base surface (74), and said closed end correlates to said base surface (74), said open and closed ends thus inherently forming the second engagement surface, defined above as the surface opposite and parallel to base surface (74), the channel in the slider receiving the wire so that movement of the slider in the channel compresses the closed end of the channel toward the first engagement surface (74) of the tongue (62) (Col.6, line 30-40).

19. In regards to **Claim 4**, Wilson et al disclose the closed end of the slider and the tongue (62) include angled cooperating surfaces shown in Figure 7.

20. In regards to **Claim 5**, Wilson et al disclose the body portion with a grip enhancing mechanism in the form of non-slip or textured grasping surface (Col.4, line 51-55).

21. **Claims 10-12** are rejected under 35 U.S.C. 102(b) as being anticipated by Hedger (US Pat No. 4057186).



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22. In regards to **Claim 10**, Hedger discloses a wiring device comprising:

(a) a body (10) having a channel, referred to as "bore" (15), extending along the length thereof in which a wire can be fitted (Col.2, line 1-2, 22-23), best seen in Figures 7a-c;

(b) a slider (16) that is movable longitudinally within the body that includes an engagement surface, shown in Figures 7a-c as "the under-surface of the slider," that secures the wire, wherein the wire can be secured in the body without removing the slider from the body (Col.2, line 23-28, 43-46).

23. In regards to **Claim 11**, Hedger discloses the slider including a channel, referred to as "hole" (20), in which the wire can be fitted and the channel in the body has a tongue (19) that cooperates with the channel on the slider to secure the wire, best seen in Figures 7a-c (Col.2, line 12-15, 24-28, 43-46).

24. In regards to **Claim 12**, Hedger discloses the slider including an engagement surface, depicted in Figures 7a-c as the bottom surface of said tongue (19) that can be selectively engaged with a fixed surface in the channel of the body, depicted in Figures 7a-c as the bottom of said body (10), to secure the wire (Col.2, line 23-28, 43-46).

25. **Claims 1-2, 7-8** are rejected under 35 U.S.C. 102(b) as being anticipated by Sherts et al (US Pat No. 6533772).

26. In regards to **Claim 1**, Sherts et al disclose a device for applying torque to a wire, comprising:

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(a) a body portion (100a) having a channel, referred to as "bore" (100b), with an opening that extends along the length of the body portion and a first engagement surface, referred to as "clamp pad" (104), within the channel (Col.10, line 4-10), shown in Figures 12b-c;

(b) a slider, referred to as "slide button" (106), that is slideable within the channel of the body portion so that the channel in the body portion remains open best seen in Figures 12b-c, the slider having a second engagement surface, referred to as "angled cam surface" (106a), that compresses a wire that is inserted in the channel against the first engagement surface so that rotation of the body portion applies torque to the wire (Col.10, line 10-15).

27. In regards to **Claim 2**, Sherts et al disclose the first engagement surface as a tongue, referred to as "clamp pad" (104) that is suspended in the channel of the body portion as seen in Figures 12b-c.

28. In regards to **Claim 7**, Sherts et al disclose the first engagement surface comprises a wedge in the channel of the body portion and the second engagement surface is a wedge on the slider, shown in Figures 12b-c.

29. In regards to **Claim 8**, Sherts et al disclose one or both engagement surfaces have a grip enhancing mechanism, wherein said grip enhancing mechanism is defined as the gripping that occurs as said first engagement surface (104) and said second engagement surface (106a) move perpendicularly by depression of said slider (106) to grip a wire (Col.10, line 10-15).

***Claim Rejections - 35 USC § 103***

30. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

31. **Claims 6 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Wilson et al in view of Greive (US Pat No. 6059484).

32. In regards to **Claim 6**, Wilson et al disclose a grip enhancing mechanism but do not disclose said grip comprises one or more ridges on the exterior of the body portion (Col.4, line 51-55). Greive discloses gripping ridges (22) on the body portion, referred to as "central piece" (7), of a guide wire introducer assembly to facilitate gripping of the device by a user's hand (Col.8, line 12), shown in Figure 1. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made include such ridges, as taught by Greive, as a specific type of grip enhancing mechanism for the guide wire torquer of Wilson et al, as an effective way to enable gripping of the device for proper and safe usage.

33. In regards to **Claim 9**, Wilson et al disclose a guide wire torquer device but do not disclose said device further comprising a clip into which coils of the wire can be secured. Greive discloses clips (18) used to hold a guide wire tubes in a coiled arrangement (Col.9, line 42-46), best seen in Figure 8. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made incorporate such clips, as taught by Greive, with the guide wire

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torquer device of Wilson et al, to hold excess guide wire in a coiled arrangement to maintain convenience during use (Col.1, line 20-33 of Greive).

*Conclusion*

34. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bowden et al (US Pat No. 5935102) disclose a steerable electrode catheter and Hargreaves et al (US Pat No. 4799496) disclose a guide wire handle.

35. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Nguyen whose telephone number is 571-272-8340. The examiner can normally be reached on Monday - Friday, 8 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Max Hindenburg can be reached on 571-272-4726. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HQN  
3/29/2006



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